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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,457	02/10/2004	Ronnie Lee Mace	0027462.00003	1350
21878	7590	12/12/2005		
KENNEDY COVINGTON LOBDELL & HICKMAN, LLP 214 N. TRYON STREET HEARST TOWER, 47TH FLOOR CHARLOTTE, NC 28202				
			EXAMINER MENDIRATTA, VISHU K	
			ART UNIT 3711	PAPER NUMBER

DATE MAILED: 12/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

②

<b>Office Action Summary</b>	<b>Application No.</b> 10/775,457	<b>Applicant(s)</b> MACE, RONNIE LEE	
	<b>Examiner</b> Vishu K. Mendiratta	<b>Art Unit</b> 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 September 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)              |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____.  |

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1. Claims 1-23,25 rejected under 35 U.S.C. 102(b) as being anticipated by Joel (5215309).

Joel teaches play board with a first portion/path (Fig.1a) and a second portion/path not connected from each other, spaces having categories of connected behavior (spaces #12, 19,56,89,109) and disconnected behavior (spaces # 16, 58), play tokens (Fig.2), cards (fig. 10,7, etc) with corresponding points.

Applicant may note rules for playing do not further add any limitation to the apparatus in the claims.

2. Claims 1-25 rejected under 35 U.S.C. 103(a) as being unpatentable over Joel in view of Ex. Parte Breslow 192 USPQ 431.

Claims 1-23,25: Joel teaches all limitations except that it does not expressly associate exactly all behavior classes and listed in claims. The only difference between applicant's claims and cited reference resides in meaning and information conveyed by the printed matter that are not considered patentable. In order to make the game attractive, it would have been obvious to associate various behaviors to spaces. One of ordinary skill in art at the time the invention was made would have suggested associating spaces to various behaviors for making the game attractive.

Claim 24: Playing the game on a computer is intended use and would have been obvious in order to reach certain sections of population. One of ordinary skill in art at the

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time the invention was made would have suggested playing game on computer to reach certain sections of population.

***Response to Arguments***

3. Applicant's arguments filed 9/22/05 have been fully considered but they are not persuasive. The newly added limitations in claim 1 do not further limit the apparatus in the claim. Examiner takes the position that the newly claimed limitations "area associated with a first/second category" and "themes being connecting or disconnecting behaviors" are mental steps/non-tangible and do not further the claimed apparatus. Examiner further takes the position that claim 25 limitations are negative limitations and non-existent. "What is not in the apparatus" cannot carry any weight. Also "linking a space to an instruction" is a method of playing that does not distinguish the apparatus as claimed.

Applicant argues that Joel does not teach the inner and outer path being non-contiguous. The examiner takes the position that they are non-contiguous in the physical sense and a clear gap between the inner and outer path can be seen. The arrows on 50 and 51 demonstrate the rules of playing but do not physically connect the two path. Joel provides all physical limitations as claimed in application and the arrows in addition.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K. Mendiratta whose telephone number is (571) 272-4426. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vishu K Mendiratta  
Primary Examiner  
Art Unit 3711

A handwritten signature in black ink, appearing to be 'Vishu K Mendiratta', written over a horizontal line.

VKM  
November 28, 2005